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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Trevor John Burke :
Application No. 09/462,550 :
Filed: March 14, 2000 :
Attorney Docket No. 078986-0209 :

This is a decision on the petitions filed July 30, 2004 under 37 CFR 1.137(b) to revive the above-identified application and a under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

The application became abandoned for failure to submit new formal drawings in compliance with the Notice of Allowability mailed September 15, 2003. A Notice of Abandonment was mailed on December 17, 2003. In response, on July 30, 2004, petitioner submitted the present petition to revive under 37 CFR 1.137(b)/ petition to withdraw from issue under 37 CFR 1.313(c)(2), five (5) sheets of formal drawings containing Figures 1-9, a request for continued examination (RCE) under 37 CFR 1.114 and an Information Disclosure Statement (IDS).

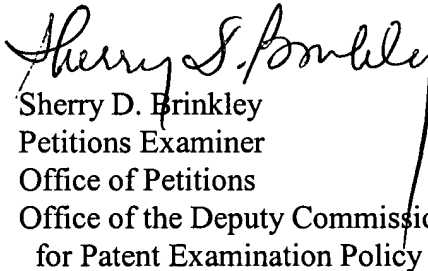
37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement in this petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the application is hereby withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 5, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 2611 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.